**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**

**SPECIAL CIVIL APPLICATION No. 14799 of 2005**
**With**
**CIVIL APPLICATION No. 6848 of 2006**

**For Approval and Signature:**

**HONOURABLE MR.JUSTICE AKIL KURESHI**

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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**MALIK IFFAT MOHAMMAD IQBAL (MINOR) THR' HIS GUARDIAN & - Petitioner(s)**
**Versus**
**DIRECTOR DEVELOPING CASTE & 2 - Respondent(s)**

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**Appearance :**
MR DC DAVE for Petitioner(s) : 1,
MS REETA CHANDARANA, AGP for Respondent(s) : 1 - 3.

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**CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI**

**Date : 17/07/2006**

**ORAL JUDGMENT**

1. In the present petition, the petitioner has challenged the order dated 16th July 2005 passed

by the Director, Developing Communities Upliftment Department, State Government. By the said order, the Director was pleased to cancel the caste certificate issued in favour of the petitioner.

2. The petitioner claiming to be belonging to Muslim Sipai Community had obtained such a certificate dated 10th June 2003 issued by the District Social Welfare Officer, Gandhinagar. On the basis of the said caste certificate, the petitioner had also secured admission in MBBS course at Rajkot Medical College. This was, however, subsequently cancelled by the authorities finding that the caste certificate was not genuine. During the pendency of the petition, the petitioner amended the petition and also included the challenge to the impugned order dated 16th July 2005 passed by the Director of Developing Communities Upliftment Department.

3. It is the case of the respondents that the petitioner belongs to Malik community and not Muslim Sipai community. She had, therefore, wrongly obtained the caste certificate. The

District Social Welfare Officer, therefore, could not have issued such a certificate. The Director, therefore, passed the said order on 16th July 2005 cancelling the caste certificate issued in favour of the petitioner. By such cancellation, the petitioner also loses the admission secured by her on the basis of the community which was categorised as Socially and Educationally Backward Community.

4. I have heard learned advocate Shri Shukla for the petitioner and learned AGP Ms.Chandarana for the respondents.

5. Having heard the learned advocates appearing for the parties, it is apparent that the Director had by a reasoned speaking order dated 16th July 2005 decided to cancel the caste certificate of the petitioner. The petitioner was given sufficient opportunity to produce material on record in support of her case that she belongs to Muslim Sipai Community. The authority relying on the material on record particularly the fact that the father of the petitioner was carrying a surname of Malik and also that the

petitioner could not produce necessary material substantiating her claim of being belonging to Muslim Sipai Community, was pleased to pass the said order.

6. In addition to the impugned order which is a speaking order, the respondents have also filed a detailed affidavit in reply pointing out the reasons for such cancellation. The petitioner has not been able to dislodge the factual findings arrived at by the competent authority. I do not find any material which would permit the petitioner to convince this Court that the caste certificate was wrongly cancelled. Only two factors were primarily sought to be pressed in service. Firstly it was contended that the gazette of Mehsana district which is produced at Annexure A to the petition provides that Maliks and Maleks are converted Hindus and they are found mainly in certain talukas and they are land holders, cultivators and constables. In their marriage and other customs, they do not differ from other converted Rajputs. I am afraid, the said material is insufficient to

establish that the petitioner belongs to Muslim Sipai Community. Reliance on the extract of the gazette would not conclude that the petitioner is a Muslim Sipai or that all Maliks are necessarily belonging to the said caste. Secondly it is urged on behalf of the petitioner that father of the petitioner was a Government servant and had for nearly 27 years received the benefits of SEBC reservation. That by itself would not be conclusive. If the petitioner failed to produce any convincing material before the authorities in support of her claim to be belonging to a particular caste, the authorities committed no error in canceling the certificate. It is clarified that the cancellation of caste certificate in favour of the petitioner is upheld on the premise that the petitioner could not sustain such a claim. This would have no bearing on the caste status of the petitioner's father and the entire issue would stand on its own merits.

7. Reliance is placed on the decision of this Court in the case of Imran Ali Rajabhai Polara v.

State of Gujarat, 2004 (1) GLR 811 and in particular para 15 thereof. I find that the petitioner could not produce any material in support of her claim. The observations made by this Court in para 15 of the said decision therefore would not apply.

8. In the result, the petition fails and is hereby rejected. Rule is discharged.

9. In view of the order passed in the main matter, the Civil Application does not survive and the same is disposed of accordingly.

(Akil Kureshi, J.)

(vjn)